

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MICHAEL BABECKI,

Plaintiff,

07 Civ. 8555 (VM)

-against-

COMPLAINT

METRO-NORTH COMMUTER RAILROAD,

Defendant.

-----X

PLAINTIFF DEMANDS TRIAL BY JURY

Plaintiff, by his attorneys, The Law Offices of Michael Flynn, PC, complains of the defendant and alleges:

FIRST: This action is brought under the Federal Employers' Liability Act, (45 U.S.C. Sec. 51 et seq.).

SECOND: The defendant is a corporation is engaged in interstate commerce by rail and operate a railroad system and railroad yards within the jurisdiction of this Court and in various other States.

THIRD: That prior to October, 6, 2004, and at all times hereinafter mentioned, the defendant employed the plaintiff as a third railman under its direction, supervision and control and in furtherance of defendant's business in interstate commerce.

FOURTH: That prior to October 6, 2004, and at all times hereinafter mentioned, the defendant maintained, operated and controlled the tracks, rails, switches, sidings, roadbeds and appurtenances thereto, over, through and upon which the defendant operated engines, trains and cars under its control and direction.

FIFTH: That prior to October 6, 2004, while the plaintiff, an employee of the defendant, was in the performance of his duties as a third rail man, the defendant, its agents,

servants and employees, so negligently and carelessly conducted themselves toward the plaintiff in failing to provide plaintiff with a reasonably safe place to work; in failing to perform ergonomic evaluations of plaintiff's work; in failing to take reasonable steps to lessen the risk of repetitive stress on knees and shoulders; and, so negligently failed and neglected to enact and enforce safety rules, regulations, procedures, and practices for activities carried out by its personnel at the said place; that all of the foregoing brought about severe and disabling injuries to plaintiff.

SIXTH: That the said injuries occurred while the plaintiff was acting in the furtherance of interstate commerce or in work closely or substantially affecting the same.

SEVENTH: That the plaintiff was damaged thereby in the sum of \$1,000,000.00.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of ONE MILLION (\$1,000,000.00) DOLLARS, together with the costs and disbursements of this action.

Law Offices of Michael Flynn PC
Attorneys for Plaintiff
1205 Franklin Avenue
Garden City, NY 11530
(516) 877-1234

By: _____
MARC WIETZKE

AO 440 (Rev. 5/85) Summons in a Civil Action

UNITED STATES DISTRICT COURT

SOUTHERN District of NEW YORK

MICHAEL BABECKI,

Plaintiff,

SUMMONS IN A CIVIL ACTION

V.

CASE NUMBER:

METRO-NORTH COMMUTER RAILROAD,

Defendant.

TO: (Name and Address of Defendant)

Metro-North Commuter Railroad
347 Madison Avenue
New York, NY 10017

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

MARC WIETZKE, Esq., MW1551
Law Offices of Michael Flynn PC
1205 Franklin Avenue
Garden City, NY 11530
(516) 877-1234

an answer to the complaint, which is herewith upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

CLERK

DATE

BY DEPUTY CLERK

AO 440 (Rev. 5/85) Summons in a Civil Action

RETURN OF SERVICE

DATE

Service of the Summons and Complaint was made by me¹ _____

NAME OF SERVER _____

TITLE _____

Check the box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served: _____

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____

☐ Returned unexecuted: _____

☐ Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL _____

SERVICES _____

TOTAL _____

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.